

REMARKS

1. Rejections

Claims 4, 8, and 12 stand rejected under 35 U.S.C. § 112, ¶ 2, as allegedly indefinite. Claims 1, 16, and 18-20 also stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 5, 298,276 to Jayaraman. Moreover, claims 1, 2, 4-10, 12, and 46 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 3,562,352 to Nyilas. Further, claims 13-15 and 17 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Jayaraman in view of Thoratec Products Information. In addition, claims 1, 11, and 46-49 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by U.S. Patent No. 5,713,907 to Hogendijk et al. (“Hogendijk”) in view of Nyilas.

Applicants are amending the application to cancel claims 1-12 and claims 21-49, without prejudice.¹ Consequently, the indefiniteness rejections, the anticipation rejections based on Nyilas, and the obviousness rejections based on Hogendijk in view of Nyilas are moot. Applicants are rewriting claims 13-16 in independent form and are amending these claims to overcome the rejections based on Jayaraman. In view of these amendments, Applicants respectfully traverse the rejections based on Jayaraman.

2. Anticipation Rejections

As noted above, claims 1, 16, and 18-20 stand rejected as allegedly anticipated by Jayaraman. “A claim is anticipated if and only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP 2131. The Office Action alleges that Jayaraman describes each and every element as set forth in claims 1, 16, and 18-20. Applicants respectfully traverse.

Applicants are rewriting claim 16 in independent form to include all of the limitations of its base claim, claim 1. Nevertheless, Applicants are adding a further limitation to describe a vascular graft comprising “a core zone . . . having a first surface and . . . a first non-

¹ Claims 21-45 had been withdrawn from consideration, as directed to an unelected invention.

porous coating disposed on said first surface and permeating into at least one portion of said core zone, such that said at least one portion of said core zone is impermeable.”

In contrast, Jayaraman describes an artificial blood vessel comprising a PET tube and a layer of polysiloxane applied to the outside of the tube in an amount sufficient to reduce the permeability of the PET tube to a permeability which allows between 1 and 25 cubic centimeters of water to flow through 1 square centimeter of surface area of the tube with water under pressure of 120 millimeters. See, e.g., Jayaraman, Column 6, lines 52-55. Because the PET tube described in Jayaraman has a permeability sufficient to allow between 1 and 25 cubic centimeters of water to flow through 1 square centimeter of surface area of the tube with water under pressure of 120 millimeters, the tube is not impermeable. Thus, Jayaraman fails at least to describe a vascular graft comprising “a core zone . . . having a first surface and . . . a first non-porous coating disposed on said first surface and permeating into at least one portion of said core zone, such that said at least one portion of said core zone is impermeable,” as described in amended claim 16. Therefore, in view of the proposed amendments to claim 16, Applicants respectfully request that the Examiner withdraw the anticipation rejection of claim 16 and the anticipation rejections of 18-20 which depend from claim 16.

3. Obviousness Rejections

As noted above, claims 13-15 and 17 stand rejected as allegedly rendered obvious by Jayaraman in view of Thoratec Products Information. Specifically, the Office Action alleges that Jayaraman describes all of the limitations of independent claim 1 and that claims 13-15 and 17 depend from claim 1. Nevertheless, as described above with respect to amended claim 16, Applicants note that Jayaraman fails at least to disclose or suggest a vascular graft comprising “a core zone . . . having a first surface and . . . a first non-porous coating disposed on said first surface and permeating into at least one portion of said core zone, such that said at least one portion of said core zone is impermeable,” as described in amended claim 16. Moreover, the Office Action does not allege that Thoratec Products Information supplies these missing limitations. Applicants have amended claims 13-15 to include the limitations of their base claim, claim 1, and the same additional limitations described above with respect to claim 16.

Applicants maintain that claims 13-15, as amended, are distinguishable over Jayaraman in view of Thoratec Products Information.

Claim 17 depends from amended claim 16. For the reasons set forth above, Applicants maintain that claim 16 is distinguishable over the cited references. "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03 (citations omitted). Therefore, Applicants also respectfully request that the Examiner withdraw the rejection to claim 17

CONCLUSION

Applicants respectfully submit that this application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an interview with Applicants' representatives, either in person or by telephone, would expedite prosecution of this application, we would welcome such an opportunity.

Applicants are enclosing a check including the amount of \$420 covering the fee for a two-month extension (Large Entity); no claim fees are due as a result of the amendments to the pending claims. Nevertheless, in the event of any variance between the fees determined by Applicants and those determined by the PTO, please charge any such variance to the undersigned's Deposit Account No. 02-0375.

Respectfully submitted,
BAKER BOTTS L.L.P.

By: 

James B. Arpin
Registration No. 33,470

Dated: January 2, 2004

Baker Botts L.L.P.
The Warner; Suite 1300
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400
(202) 639-7700 (telephone)
(202) 639-7890 (facsimile)

JBA/dh